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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,918	12/13/2005	John E. Hansen	13323-105003	5673
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KING & SPALDING 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036-4003			EXAMINER HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	
			NOTIFICATION DATE	DELIVERY MODE
			10/30/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptomailnyc@kslaw.com

Office Action Summary

Application No.

10/538,918

Applicant(s)

HANSEN ET AL.

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 84-136 is/are pending in the application.
- 4a) Of the above claim(s) 130-136 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 84-129 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/6/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments, see Remarks, filed August 6, 2007, with respect to the restriction and election of species requirement mailed May 4, 2007 have been fully considered and are persuasive. The restriction and election of species requirement has been withdrawn.

Applicant's arguments, see Remarks, filed February 6, 2007, with respect to the rejection(s) of claim(s) 1 and 84-107 and 110 under 35 U.S.C 102 and claims 108 and 109 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art references.

Election/Restrictions

Newly submitted claims 130-136 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 130-136 are directed to a method for cultivation that is patentably distinct from any of the claimed methods and claims directed thereto that have been examined on the merits.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 130-136 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on February 6, 2007 was filed after the mailing date of the non-final action on October 6, 2006. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 84, 86, 87, 91-94, 107, 116 and 117 are rejected under 35 U.S.C. 102(b) as being anticipated by Hahn et al (U.S. Patent No. 5,804,203).

With respect to **claims 1,84**: Hahn teaches a device comprising i) a swab applicator which is a natural or synthetic absorbent material comprising collagen particles; and ii) a support in the form of a stick fixed to said swab by adhering the instant formulation comprising collagen to said stick. With regard to the limitation “for sampling or collecting”, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. (Col. 17, lines 44-54)

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With respect to **claim 86**: The swab taught by Hahn is made from a protein-based material that is necessarily a natural absorbent material comprising collagen particles. (Col. 17, lines 1-3, 14, 15)

With respect to **claim 87**: The collagen is protein-based and thus is of natural origin. (Col. 17, lines 1-3, 14, 15)

With respect to **claim 91**: Hahn teaches a kit comprising i) a swab that meets the limitations of claim 84 and ii) a neutral diluent in the form of a water solvent. (Col. 17, lines 44-54, Col. 18, lines 61,62)

With respect to **claim 92**: Hahn teaches ethanol as the neutral diluent, considered herein to be an organic buffer. (Col. 18, lines 61,62)

With respect to **claim 93**: Hahn teaches a method for collecting a target (skin cells from skin area) from a collection medium (i.e. the swab in the form of the collagen sponge applicator) comprising making contact between the swab meeting the limitations of claim 84 and the target. (Col. 17, lines 44-51, Col. 22, lines 46-48)

With respect to **Claim 94**: Hahn teaches a method comprising making contact between a swab meeting the limitations of claim 91 and said target. The limitation "for collecting a target from a collection medium" is considered functional language that is given little patentable weight herein. (Col. 17, lines 44-51, Col. 22, lines 46-48)

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With respect to **Claim 107**: The swab taught by Hahn comprises natural absorbent material comprising gelatine particles. (Col. 17, lines 1-3, 14, 15)

With respect to **claim 116**: Hahn teaches a device comprising i) a swab which is a natural or synthetic absorbent material consisting essentially of gelatine; and ii) a support in the form of a stick fixed to said swab by adhering the instant formulation comprising collagen to said stick.

With regard to the limitation "for sampling or collecting", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. (Col. 17, lines 44-54, Col. 17, lines 1-3, 14, 15)

With respect to **claim 117**: Hahn teaches a device comprising i) a swab which is a natural or synthetic absorbent material consisting essentially of collagen; and ii) a support in the form of a stick fixed to said swab by adhering the instant formulation comprising collagen to said stick.

With regard to the limitation "for sampling or collecting", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. (Col. 17, lines 44-54, Col. 17, lines 1-3, 14, 15)

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 108 and 109 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hahn et al ('203).

With respect to **Claims 108,109**: Hahn does not teach a mammalian or marine mammalian gelatine or collagen source. However, the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985). See also *MPEP* § 2113. The burden shifts to applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product. *In re Marosi*, 710 F.2d 798, 802, 218 USPQ 289, 292 (Fed. Cir. 1983)

Claims 85, 88, 111,121, 122 and 129 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn et al ('203).

With respect to **claim 85**: Hahn teaches that the swab is collagen-based, however Hahn does not explicitly teach that the collagen is microfibrillar collagen. However, since microfibrillar collagen is a form of collagen that is also suitable for any application that a collagen is suitable for, it would be obvious to one of ordinary skill in the art to modify the article of Hahn such that

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the collagen is microfibrillar collagen with a reasonable expectation of success to preserve the function of the article. If there is a design need or a market pressure to solve a problem, and there are a finite number of identified, predictable solutions (in this case varieties of collagen or gelatine that can perform the function of sample collection), a person of ordinary skill in the art has good reason to pursue known options within his or her technical grasp, and if this leads to anticipated success, it is likely product of ordinary skill and common sense, not innovation. See *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007)

With respect to **claim 88**: Hahn also teaches a gelatine-based sponge. With regard to the limitation "the gelatine-based sponge has a water absorption capacity of at least 30 g/g", when the structure or composition recited in the reference is substantially identical to that of the claims of the instant invention, claimed properties or functions are presumed to be inherent (MPEP 2112-2112.01). A prima facie case of either anticipation or obviousness has been established when the reference discloses all the limitations of a claim (in this case, a swab comprising a gelatine-based sponge material) except for a property or function (in the present case, the absorption capacity of said gelatine-based sponge material) and the examiner can not determine whether or not the reference inherently possesses properties that anticipate or render obvious the claimed invention but has a basis for shifting the burden of proof to applicant, as per *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980).

With respect to **claim 111**: Hahn also teaches a gelatine-based sponge. With regard to the limitation "the gelatine-based sponge has a water absorption capacity of at least 40 g/g", when the structure or composition recited in the reference is substantially identical to that of the claims of the instant invention, claimed properties or functions are presumed to be inherent (MPEP

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2112-2112.01). A prima facie case of either anticipation or obviousness has been established when the reference discloses all the limitations of a claim (in this case, a swab comprising a gelatine-based sponge material) except for a property or function (in the present case, the absorption capacity of said gelatine-based sponge material) and the examiner can not determine whether or not the reference inherently possesses properties that anticipate or render obvious the claimed invention but has a basis for shifting the burden of proof to applicant, as per *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980).

With respect to **claim 121**: Hahn teaches that the swab applicator consists essentially of gelatine, thus the sponge contains at least 50% gelatine.

With respect to **claim 122**: Hahn teaches that the swab applicator consists essentially of collagen, thus the sponge contains at least 50% collagen.

With respect to **claim 129**: Hahn also teaches a gelatine-based sponge. With regard to the limitation "the gelatine-based sponge has a water absorption capacity of at least 5 g/g", when the structure or composition recited in the reference is substantially identical to that of the claims of the instant invention, claimed properties or functions are presumed to be inherent (MPEP 2112-2112.01). A prima facie case of either anticipation or obviousness has been established when the reference discloses all the limitations of a claim (in this case, a swab comprising a gelatine-based sponge material) except for a property or function (in the present case, the absorption capacity of said gelatine-based sponge material) and the examiner can not determine whether or not the reference inherently possesses properties that anticipate or render

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obvious the claimed invention but has a basis for shifting the burden of proof to applicant, as per *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980).

Claims 89 and 123-128 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn et al ('203) in view of Blakesley et al (U.S. Patent Application Publication No. 2002/0012982).

With respect to **claim 89**: Hahn does not teach a particular average pore size for the instant collagen-based sponge. Blakesley teaches an average pore size for a gel sponge of 0.1-10,000 microns, or 100 nm – 2 mm. Since Hahn also teaches a gelatine sponge and the respective swabs are capable of performing the identical function of tissue sample collecting, it would be obvious to one of ordinary skill in the art to modify the article of Hahn such that the gelatine or collagen based sponge has an average pore size such as that taught by Blakesley with a reasonable expectation of success to preserve the capability for tissue sample collection. The combined teaching of Hahn and Blakesley thus teaches a collagen- or gelatine-based sponge with an average pore size of 100 nm – 2 mm, which overlaps the claimed range of about 10 nm to about 2 mm.

With respect to **claim 123**: Hahn does not teach a pore size. Blakesley teaches an average pore size for the sponge of 0.1-10,000 microns, or 100 nm – 2 mm. The average pore size is interpreted herein as being equal to the mean pore size, therefore 50% of the pores have a size less than 100 nm – 2 mm, which overlaps the claimed range of at least 10% of the pores having a size of less than 1,000 nm. Since Hahn also teaches a gelatine sponge and the respective swabs are capable of performing the identical function of tissue sample collecting, it would be

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obvious to one of ordinary skill in the art to modify the article of Hahn such that the gelatine or collagen based sponge has an average pore size such as that taught by Blakesley with a reasonable expectation of success to preserve the capability for tissue sample collection.

With respect to **claim 124**: Hahn does not teach a pore size. Blakesley teaches an average pore size for the instant sponge of 0.1-10,000 microns, or 100 nm – 2 mm. The average pore size is interpreted herein as being equal to the mean pore size, therefore 50% of the pores have a size less than 100 nm – 2 mm, which overlaps the claimed range of at least 10% of the pores having a size of less than 400 nm. The motivation to combine the teachings of Hahn and Blakesley is stated *supra* with respect to claim 123.

With respect to **claim 125**: Hahn does not teach a pore size. Blakesley teaches an average pore size for the instant sponge of 0.1-10,000 microns, or 100 nm – 2 mm. The average pore size is interpreted herein as being equal to the mean pore size, therefore 50% of the pores have a size of less than 1000 μ m, or 1 mm. The motivation to combine the teachings of Hahn and Blakesley is stated *supra* with respect to claim 123.

With respect to **claim 126**: Hahn does not teach a pore size. Blakesley teaches an average pore size for the instant sponge of 0.1-10,000 microns, or 100 nm – 2 mm. The average pore size is interpreted herein as being equal to the mean pore size, therefore 50% of the pores have a size of less than 500 μ m. The motivation to combine the teachings of Hahn and Blakesley is stated *supra* with respect to claim 123.

With respect to **claim 127**: Hahn does not teach a pore size. Blakesley teaches an average

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pore size for the instant sponge of 0.1-10,000 microns, or 100 nm – 2 mm. The average pore size is interpreted herein as being equal to the mean pore size, therefore 50% of the pores have a size of less than 100 μ m. The motivation to combine the teachings of Hahn and Blakesley is stated *supra* with respect to claim 123.

With respect to **claim 128**: Hahn does not teach a pore size. Blakesley teaches an average pore size for the instant sponge of 0.1-10,000 microns, or 100 nm – 2 mm. The average pore size is interpreted herein as being equal to the mean pore size, therefore 50% of the pores have a size of less than 10 μ m, or 0.01 mm. The motivation to combine the teachings of Hahn and Blakesley is stated *supra* with respect to claim 123.

Claims 90, 110 and 112-115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn ('203) in view of Rosenthal et al (U.S. Patent No. 5,700,476).

With respect to **claim 90**: Hahn does not teach a particular particle size for the collagen material. Rosenthal teaches a sponge comprising collagen fibers having a particle size of 0.01 (10 μ m) -10 mm which overlaps the claimed range of about 1 μ m to about 1 mm. Rosenthal teaches that the sponge, which is a heteromorphic sponge, allows host tissue to replace the collagen (i.e. the sponge is suitable for attracting natural human tissue), therefore it would be obvious to one of ordinary skill in the art to modify the article of Hahn such that the collagen sponge has a particle size in the range taught by Rosenthal to allow tissue attraction and collection. The combined teaching of Hahn and Rosenthal thus teaches a collagen sponge having a particle size within the claimed range. ('476, Col. 3, lines 55-64, Col. 4, lines 61-63)

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With respect to **Claim 110**: Hahn does not teach that the collagen originates from any particular source. Rosenthal teaches a collagen sponge wherein the collagen derives from a porcine source, i.e. pigs. Rosenthal teaches that the sponge, which is a heteromorphic sponge, allows host tissue to replace the collagen (i.e. the sponge is suitable for attracting natural human tissue), therefore it would be obvious to one of ordinary skill in the art to modify the article of Hahn such that the collagen sponge has a particle size in the range taught by Rosenthal to allow tissue attraction and collection. The combined teaching of Hahn and Rosenthal thus teaches a collagen sponge having a particle size within the claimed range. ('476, Col. 3, lines 55-64, Col. 4, lines 61-63)

With respect to **claim 112**: Hahn does not teach a particular particle size for the collagen material. Rosenthal teaches a sponge comprising collagen fibers having a particle size of 0.01 (10 μ m) -10 mm which overlaps the claimed range of about 5 μ m to about 0.5 mm. Rosenthal teaches that the sponge, which is a heteromorphic sponge, allows host tissue to replace the collagen (i.e. the sponge is suitable for attracting natural human tissue), therefore it would be obvious to one of ordinary skill in the art to modify the article of Hahn such that the collagen sponge has a particle size in the range taught by Rosenthal to allow tissue attraction and collection. The combined teaching of Hahn and Rosenthal thus teaches a collagen sponge having a particle size within the claimed range. ('476, Col. 3, lines 55-64, Col. 4, lines 61-63)

With respect to **claim 113**: Hahn does not teach a particular particle size for the collagen material. Rosenthal teaches a sponge comprising collagen fibers having a particle size of 0.01 (10 μ m) -10 mm which overlaps the claimed range of about 5 μ m to about 0.25 mm. Rosenthal teaches that the sponge, which is a heteromorphic sponge, allows host tissue to replace the

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collagen (i.e. the sponge is suitable for attracting natural human tissue), therefore it would be obvious to one of ordinary skill in the art to modify the article of Hahn such that the collagen sponge has a particle size in the range taught by Rosenthal to allow tissue attraction and collection. The combined teaching of Hahn and Rosenthal thus teaches a collagen sponge having a particle size within the claimed range. ('476, Col. 3, lines 55-64, Col. 4, lines 61-63)

With respect to **claim 114**: Hahn does not teach a particular particle size for the collagen material. Rosenthal teaches a sponge comprising collagen fibers having a particle size of 0.01 (10 μ m) -10 mm which overlaps the claimed range of about 10 μ m to about 0.25 mm. Rosenthal teaches that the sponge, which is a heteromorphic sponge, allows host tissue to replace the collagen (i.e. the sponge is suitable for attracting natural human tissue), therefore it would be obvious to one of ordinary skill in the art to modify the article of Hahn such that the collagen sponge has a particle size in the range taught by Rosenthal to allow tissue attraction and collection. The combined teaching of Hahn and Rosenthal thus teaches a collagen sponge having a particle size within the claimed range. ('476, Col. 3, lines 55-64, Col. 4, lines 61-63)

With respect to **claim 115**: Hahn does not teach a particular particle size for the collagen material. Rosenthal teaches a sponge comprising collagen fibers having a particle size of 0.01 (10 μ m) -10 mm which overlaps the claimed range of about 10 μ m to about 0.1 mm. Rosenthal teaches that the sponge, which is a heteromorphic sponge, allows host tissue to replace the collagen (i.e. the sponge is suitable for attracting natural human tissue), therefore it would be obvious to one of ordinary skill in the art to modify the article of Hahn such that the collagen sponge has a particle size in the range taught by Rosenthal to allow tissue attraction and

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collection. The combined teaching of Hahn and Rosenthal thus teaches a collagen sponge having a particle size within the claimed range. ('476, Col. 3, lines 55-64, Col. 4, lines 61-63)

Claims 95-106 and 118-120 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blakesley et al ('982) in view of Hahn et al ('203).

With respect to **Claim 95**: Blakesley teaches a method for sampling an area of a target comprising the steps of swiping the target area with a pre-wetted swab 2 and swiping the target area pre-wetted in step (i) with swab 2, thereby recovering the target from said pre-wetted area.

Blakesley teaches agarose gel, which is a naturally occurring gel material derived from a plant source, but does not teach a gelatine- or collagen-based sponge. Hahn teaches a swab applicator comprising a collagen-based sponge. Since both the gel material of Blakesley and Hahn are naturally occurring protein-based materials capable of and intended for a substantially identical purpose (collecting skin cells from a target area), it would be obvious to one of ordinary skill in the art to modify the article of Blakesley such that the swab is comprised of collagen-based sponge as taught by Hahn with a reasonable expectation of success to preserve the swab's intended function.

With respect to **Claims 96-98,102**: Blakesley teaches elution of target molecules while attached to the swab (i.e. transfer) by an aqueous buffer solution (first transfer medium).

Blakesley teaches agarose gel, which is a naturally occurring gel material derived from a plant source, but does not teach a gelatine- or collagen-based sponge. Hahn teaches a swab applicator comprising a collagen-based sponge. Since both the gel material of Blakesley and Hahn are naturally occurring protein-based materials capable of and intended for a substantially

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identical purpose (collecting skin cells from a target area), it would be obvious to one of ordinary skill in the art to modify the article of Blakesley such that the swab is comprised of collagen-based sponge as taught by Hahn with a reasonable expectation of success to preserve the swab's intended function.

With respect to **Claims 99,100**: The target molecules are peptides or proteins, i.e. organic molecules.

With respect to **Claim 101**: The transfer to the first medium, the buffer solution, is followed subsequently by addition of the lysing agent, which accomplishes digestion of the gel particles.

Blakesley does not teach gelatine particles. Blakesley teaches agarose gel, which is a naturally occurring gel material derived from a plant source, but does not teach a gelatine- or collagen-based sponge. Hahn teaches a swab applicator comprising a collagen-based sponge. Since both the gel material of Blakesley and Hahn are naturally occurring protein-based materials capable of and intended for a substantially identical purpose (collecting skin cells from a target area), it would be obvious to one of ordinary skill in the art to modify the article of Blakesley such that the swab is comprised of collagen-based sponge as taught by Hahn with a reasonable expectation of success to preserve the swab's intended function. The transfer step of the method of the combined teaching of Blakesley and Hahn therefore comprises the digestion of collagen.

With respect to **Claim 103**: The cell lysing agents taught by Blakesley comprise chromatographic resins having enzymes bonded thereto.

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With respect to **Claim 104**: The cell lysing process taught by Blakesley accomplishes digestion of the target cells by being filtered through a cell membrane.

With respect to **Claim 105**: The buffer solution taught by Blakesley acting as the first transfer medium is a neutral diluent.

With respect to **Claim 106**: The combined teaching of Blakesley and Hahn teaches culturing the cells collected on a swab as set forth in claim 91 in a growth medium.

With respect to **claim 118**: The micro-organism taught by Blakesley is bacteria. (see Abstract)

With respect to **claim 119**: The mammalian cell taught by Blakesley is a cell from blood plasma.
(¶0078)

With respect to **claim 120**: The mammalian cell taught by Blakesley is a blood cell, which contains all of the items set forth in claim 120 i.e. leukocytes, erythrocytes, and thrombocytes.
(¶0078)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

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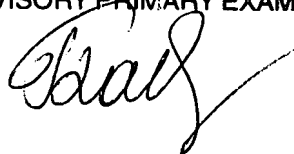
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
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October 23, 2007

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', is written over the printed name and title.